

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JAASIN TAYLOR,

Plaintiff,

v.

BALL CORPORATION,

Defendant.

Civil Action

No.

4:21-cv-03173

VIDEOTAPED DEPOSITION OF

RUSSELL J. KENDZIOR

DATE: Friday, February 10, 2023

TIME: 9:15 a.m.

LOCATION: Remote Proceeding

1845 Precinct Line Road, Suite 212

Hurst, TX 76054

REPORTED BY: Kelsey Peterson, Notary Public

JOB NO.: 5679456

<p>1 APPEARANCES</p> <p>2 ON BEHALF OF PLAINTIFF JAASIN TAYLOR:</p> <p>3 MAURICIO GUEVARA, ESQUIRE (by videoconference)</p> <p>4 The Buzbee Law Firm</p> <p>5 600 Travis Street, Suite 7300</p> <p>6 Houston, TX 77002</p> <p>7 mguevara@txattorneys.com</p> <p>8 (713) 223-5393</p> <p>9</p> <p>10 ON BEHALF OF DEFENDANT BALL CORPORATION:</p> <p>11 KARL A. SCHULZ, ESQUIRE (by videoconference)</p> <p>12 LONN PARSONS (by videoconference)</p> <p>13 Cozen O'Connor PC</p> <p>14 1221 McKinney Street, Suite 2900</p> <p>15 Houston, TX 77010</p> <p>16 kschulz@cozen.com</p> <p>17 lparsons@cozen.com</p> <p>18 (832) 214-3900</p> <p>19</p> <p>20 ALSO PRESENT:</p> <p>21 Kenny Parker, Videographer (by videoconference)</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 2</p>	<p>1 PROCEEDINGS</p> <p>2 THE VIDEOGRAPHER: 9:15 a.m.</p> <p>3 Madam Court Reporter, you may proceed.</p> <p>4 THE REPORTER: Thank you.</p> <p>5 Good morning. My name is Kelsey</p> <p>6 Peterson; I am the reporter assigned by Veritext to</p> <p>7 take the record of this proceeding. We are now on the</p> <p>8 record at 9:15 a.m.</p> <p>9 This is the deposition of Russell J.</p> <p>10 Kendzior taken in the matter of Jaasin Taylor vs. Ball</p> <p>11 Corporation on Friday, February 10, 2023.</p> <p>12 I'm a notary authorized to take</p> <p>13 acknowledgments and administer oaths in Texas.</p> <p>14 Parties agree that I will swear in the witness</p> <p>15 remotely.</p> <p>16 The reporter is located in Victoria,</p> <p>17 Texas, and the witness is located in Hurst, Texas.</p> <p>18 Additionally, absent an objection on</p> <p>19 the record before the witness is sworn, all parties</p> <p>20 and the witness understand and agree that any</p> <p>21 certified transcript produced from the recordings of</p> <p>22 this proceeding:</p> <p>23 - is intended for all uses permitted</p> <p>24 under applicable procedural and</p> <p>25 evidentiary rules and laws in the same</p> <p style="text-align: right;">Page 4</p>
<p>1 INDEX</p> <p>2 EXAMINATION: PAGE</p> <p>3 By Mr. Schulz 5</p> <p>4</p> <p>5 EXHIBITS</p> <p>6 NO. DESCRIPTION PAGE</p> <p>7 Kendzior:</p> <p>8 Exhibit 1 Defendant's First Amended Notice</p> <p>9 Of Intention to Take the Oral and</p> <p>10 Videotaped Deposition of</p> <p>11 Russell J. Kendzior and Subpoena</p> <p>12 Duces Tecum 7</p> <p>13 Exhibit 2 Plaintiff's Rule 26(a)(2)</p> <p>14 Disclosures of Expert Testimony 9</p> <p>15 Exhibit 3 Traction Experts, Inc., Report,</p> <p>16 Witness's Curriculum Vitae, and</p> <p>17 List of Testimony 23</p> <p>18 Exhibit 4 Jenkins vs. Helmerich & Payne</p> <p>19 International Drilling Co.</p> <p>20 Case Documents 34</p> <p>21 Exhibit 5 Jaasin Taylor's Temporary</p> <p>22 Employment File 83</p> <p>23 Exhibit 6 Security Video of Incident 90</p> <p>24 (Exhibits attached.)</p> <p>25</p> <p style="text-align: right;">Page 3</p>	<p>1 manner as a deposition recorded by</p> <p>2 stenographic means; and</p> <p>3 - shall constitute written stipulation</p> <p>4 of such.</p> <p>5 This proceeding will be recorded via</p> <p>6 video technology by Kenny Parker.</p> <p>7 At this time will everyone in</p> <p>8 attendance please identify yourself for the record.</p> <p>9 MR. GUEVARA: Mauricio Guevara for the</p> <p>10 plaintiff.</p> <p>11 MR. SCHULZ: Karl Schulz for the</p> <p>12 defendant.</p> <p>13 THE REPORTER: Thank you. And hearing</p> <p>14 no objection, I will now swear in the witness.</p> <p>15 Will you please raise your right hand?</p> <p>16 WHEREUPON,</p> <p>17 RUSSELL J. KENDZIOR,</p> <p>18 called as a witness, and having been first duly sworn</p> <p>19 to tell the truth, the whole truth, and nothing but</p> <p>20 the truth, was examined and testified as follows:</p> <p>21 THE REPORTER: Thank you.</p> <p>22 You may now proceed.</p> <p>23 EXAMINATION</p> <p>24 BY MR. SCHULZ:</p> <p>25 Q Sir, would you say and spell your full name?</p> <p style="text-align: right;">Page 5</p>

<p>1 private investigators, I'm -- I'm not qualified to 2 render opinions on that.</p> <p>3 Q Sure. I don't just mean private 4 investigators, sir, but all kinds of investigators, 5 like police investigators, fraud investigators, 6 internal investigators. Would you agree with me that 7 those kinds of investigators probably do interview 8 alleged victims and witnesses? Don't they?</p> <p>9 A Again, I'm not here to render opinions about 10 what investigators do. I'm not an investigator. I 11 would only be able to speculate as to what that 12 profession does and how they conduct themselves and 13 what the standards are for investigators. I'm not 14 retained as an investigator in this matter.</p> <p>15 Q Okay. So to be clear, sir, for the jury, 16 you didn't investigate this loss at all; is that 17 right?</p> <p>18 A That's correct. I -- I did not perform any 19 type of investigation. Just reading the documents and 20 the facts and evidence, testimony that was provided to 21 me, along with the surveillance video.</p> <p>22 Q In connection with your review, were all of 23 the documents that you reviewed provided by 24 Mr. Taylor's counsel?</p> <p>25 A Yes.</p> <p style="text-align: right;">Page 14</p>	<p>1 hydraulic fluid?</p> <p>2 A You mean at the location in question?</p> <p>3 Q Correct.</p> <p>4 A No, I did not.</p> <p>5 Q Any sort of lubricants used at the location?</p> <p>6 A No. I've not been to the location, and I 7 did not do any testing.</p> <p>8 Q How about soap at the location?</p> <p>9 A I just think I answered that. I've never 10 been to the location. I never tested any -- any 11 floors under any conditions at -- at the location.</p> <p>12 Q Okay. So no water testing either?</p> <p>13 A That's correct.</p> <p>14 Q Is there a reason you didn't go to the 15 location?</p> <p>16 A I was not asked to.</p> <p>17 Q Okay. Do you normally go to a location to 18 analyze an incident and form your opinions?</p> <p>19 A Not normally, no.</p> <p>20 Q So just to be clear, sir, you didn't go to 21 the Ball location, and you didn't test any surfaces 22 there; is that correct?</p> <p>23 A That's correct.</p> <p>24 Q And you didn't test the floor where the 25 alleged incident occurred; did you?</p> <p style="text-align: right;">Page 16</p>
<p>1 Q Did you do any independent investigation 2 regarding the incident or Mr. Taylor?</p> <p>3 A No. As I said, I have not performed any 4 investigation. I'm not an investigator. I was not 5 retained in that capacity.</p> <p>6 Q Okay. Did you do any independent analysis 7 of facts or data regarding the incident or Mr. Taylor?</p> <p>8 A Certainly. All the data that -- or 9 documents you see in my report and that you have on 10 the screen is what I reviewed in preparing my report 11 and subsequent opinions.</p> <p>12 Q Sure. But I mean did you do consulting of 13 sources on the Internet or library sources or 14 professional sources to try and learn more about the 15 incident or Mr. Taylor?</p> <p>16 A No. When you say -- when you say "library 17 sources," maybe I should clarify. What do you mean 18 by -- I mean, I have a library of my own, library of 19 standards. In fact, I cited them in my report. But I 20 didn't seek out any library.</p> <p>21 Q Okay. That's fine. Did you run any tests, 22 sir, on any of the fluids involved in the alleged 23 incident?</p> <p>24 A No, I did not.</p> <p>25 Q Did you run any tests on any oil or</p> <p style="text-align: right;">Page 15</p>	<p>1 A No.</p> <p>2 Q Did you run any tests on Mr. Taylor's shoes 3 that he was wearing?</p> <p>4 A I don't know what types of shoes Mr. Taylor 5 was wearing and did not perform any tests.</p> <p>6 Q Any tests of any kind on anything?</p> <p>7 A No. I've not performed any tests in this 8 matter.</p> <p>9 Q Did you do any testing of coefficient of 10 friction?</p> <p>11 A No.</p> <p>12 MR. SCHULZ: Lonn, can you scoot down, 13 please, to subsection (iv)?</p> <p>14 BY MR. SCHULZ:</p> <p>15 Q This is a reference, sir, to your CV, which 16 we can pull up separately. But I'm just going to ask 17 you questions, here, of a general nature. Do your 18 qualifications include any training, education, or 19 experience that is particular to Ball?</p> <p>20 A I'm sorry. Can you rephrase that?</p> <p>21 Q Sure. Have you ever worked at Ball, been 22 trained at Ball, had any involvement with Ball itself?</p> <p>23 A No.</p> <p>24 Q Have you done any research regarding Ball or 25 its operations?</p> <p style="text-align: right;">Page 17</p>

<p>1 A Research in what way?</p> <p>2 Q For example, research about Ball on the</p> <p>3 company website, or maybe a publicly traded finance</p> <p>4 page from the Internet, or marketing materials that</p> <p>5 Ball may have, anything like that concerning Ball.</p> <p>6 A No.</p> <p>7 Q Do you have any background of any kind with</p> <p>8 manufacturing or recycling of aluminum cans?</p> <p>9 A No.</p> <p>10 Q Do you have any background of any kind with</p> <p>11 a baler, or briquetter machine, as it's been described</p> <p>12 in this case?</p> <p>13 A No.</p> <p>14 Q Do you have any background of any kind</p> <p>15 concerning janitorial services?</p> <p>16 A Janitorial what? You cut out on me.</p> <p>17 Q I'm sorry. Janitorial services.</p> <p>18 A Yeah, I'm very familiar with the janitorial</p> <p>19 industry.</p> <p>20 Q Okay. Can you tell me more about that,</p> <p>21 please? How did you come to be familiar with it?</p> <p>22 A I worked in that industry as a supplier of</p> <p>23 janitorial products. The janitorial industry's</p> <p>24 primary trade association is one that I've worked</p> <p>25 personally with for several -- probably 20 years, and</p> <p style="text-align: right;">Page 18</p>	<p>1 if you want to -- if that was the actual -- my title.</p> <p>2 But my first company was called Traction Plus. And as</p> <p>3 I mentioned, I -- we manufactured cleaning products,</p> <p>4 chemicals. And as part of my responsibility, I would</p> <p>5 apply the cleaning products, safety treatments, to</p> <p>6 floors for prospective customers. Did that for</p> <p>7 probably seven or eight years.</p> <p>8 And so although I was not employed as a</p> <p>9 janitor, I did janitorial work, predominantly cleaning</p> <p>10 floors, mopping floors with the products that I had</p> <p>11 developed and marketed to -- to a wide -- wide range</p> <p>12 of industries.</p> <p>13 Q So I just want to be clear. When you were</p> <p>14 doing that work, it was more in terms of a testing- or</p> <p>15 demonstration-type setting? It wasn't mopping and</p> <p>16 sweeping after hours at an office building, that kind</p> <p>17 of thing?</p> <p>18 A No, that's exactly what it was. It was not</p> <p>19 office buildings, but predominantly restaurants,</p> <p>20 commercial locations. And that's exactly what -- what</p> <p>21 I would do, is go in after hours and mop and sweep</p> <p>22 floors, oftentimes training my -- my customers' staff</p> <p>23 on -- on how to provide -- or how to use the products</p> <p>24 I was selling them. So no, I was actually mopping and</p> <p>25 cleaning floors.</p> <p style="text-align: right;">Page 20</p>
<p>1 that's the International Sanitary Supply Association,</p> <p>2 or ISSA. In fact, I've actually attended that</p> <p>3 organization as a speaker several times. I also work</p> <p>4 closely with the International Executive Housekeepers</p> <p>5 Association. I've spoken in front of that group as</p> <p>6 well.</p> <p>7 Both of those organizations serve on the</p> <p>8 board of directors of the National Floor Safety</p> <p>9 Institute, which I chair. I worked closely for many</p> <p>10 years with other manufacturers of cleaning products,</p> <p>11 cleaning equipment, have worked in the area of</p> <p>12 standards development for the standards that were</p> <p>13 created for maintenance. That's published through the</p> <p>14 International Sanitary Supply Association and other</p> <p>15 standards-developing organizations.</p> <p>16 And I test. I've tested, over the -- the</p> <p>17 years, products that are manufactured by the</p> <p>18 janitorial supply industry, manufacturers of cleaning</p> <p>19 products -- automated equipment, mops, buckets, et</p> <p>20 cetera -- on behalf of the National Floor Safety</p> <p>21 Institute.</p> <p>22 Q Have you ever done janitorial work yourself?</p> <p>23 A I have.</p> <p>24 Q Can you tell me about that, please?</p> <p>25 A Yeah. I worked as a janitor. I don't know</p> <p style="text-align: right;">Page 19</p>	<p>1 Q How much time did it take to train those</p> <p>2 customers' cleaning staff? Would that be completed in</p> <p>3 an evening?</p> <p>4 A Yes.</p> <p>5 Q Is it fair, then, to say that janitorial</p> <p>6 work does not require extensive training?</p> <p>7 A It depends. When you use the term</p> <p>8 "janitorial work," that's a very broad range of -- of</p> <p>9 duties. My specific area of janitorial work is -- is</p> <p>10 isolated to cleaning and mopping of floors,</p> <p>11 maintaining commercial floors.</p> <p>12 Q Okay. And does cleaning and mopping floors</p> <p>13 require extensive training?</p> <p>14 A I don't know how you would define extensive,</p> <p>15 but there is -- yes, there is training that is</p> <p>16 required.</p> <p>17 Q Can it be completed in an evening, like we</p> <p>18 talked about?</p> <p>19 A Yes, it can. It should be.</p> <p>20 Q Do you have any indication that Mr. Taylor</p> <p>21 did not receive sufficient training regarding mopping,</p> <p>22 sweeping, and care of floors?</p> <p>23 A By whom? Sufficient training?</p> <p>24 Q By Ball.</p> <p>25 A I don't know if Ball provided any training</p> <p style="text-align: right;">Page 21</p>

<p>1 to Mr. Taylor.</p> <p>2 Q So you don't have any opinion on the degree</p> <p>3 of training Mr. Taylor received or its adequacy?</p> <p>4 A At this time, I'm unaware of what training</p> <p>5 Mr. Taylor received from Ball as a function of his job</p> <p>6 at the time he was working at their facility.</p> <p>7 Q Okay. But I want to be clear. You're not</p> <p>8 going to come back and say later, his training was</p> <p>9 inadequate? You just don't know or have enough</p> <p>10 information at this time?</p> <p>11 A Well -- and again, I'm refining my opinions</p> <p>12 to his training as -- you asked regarding mopping the</p> <p>13 floor, cleaning the floor.</p> <p>14 Q Right. So my specific question, then, is,</p> <p>15 you don't have an opinion, at the time, regarding the</p> <p>16 adequacy of Ball's training or not training for</p> <p>17 Mr. Taylor's mopping and sweeping work on floor</p> <p>18 surfaces; is that correct?</p> <p>19 A Yes. And that's because I -- I have no</p> <p>20 information regarding what training he received.</p> <p>21 If -- if I receive documentation or there's testimony</p> <p>22 that, after my deposition today, reveals his training,</p> <p>23 then, obviously, I reserve the right to amend my</p> <p>24 opinions in the future.</p> <p>25 But as of today, I have no knowledge of</p> <p style="text-align: right;">Page 22</p>	<p>1 up for a second. I couldn't hear "16."</p> <p>2 MR. SCHULZ: Sorry. Thank you.</p> <p>3 BY MR. SCHULZ:</p> <p>4 Q All right. Sir, this is a portion of your</p> <p>5 CV, and, in particular, we're looking at "Professional</p> <p>6 Associations." Do you see that, sir?</p> <p>7 A Yes.</p> <p>8 Q One of your professional associations is</p> <p>9 "The Association of Certified Fraud Examiners,"</p> <p>10 AFCE [sic]. Do you see that, sir?</p> <p>11 A Yes.</p> <p>12 Q Can you please tell me about that</p> <p>13 credential?</p> <p>14 A I worked with the Associate of Certified</p> <p>15 Fraud Examiners on and off for probably eight to ten</p> <p>16 years. I think we were both interviewed for a media</p> <p>17 television program a long time ago and developed a</p> <p>18 working relationship with them.</p> <p>19 Obviously, they cover a wide range of</p> <p>20 potential fraud related to injury claims or other</p> <p>21 types of matters. And so it was helpful to understand</p> <p>22 their perspective, specifically as it relates to fraud</p> <p>23 that may exist, and the techniques used to investigate</p> <p>24 fraud for slips, trips, and falls.</p> <p>25 Q So are you a certified fraud examiner</p> <p style="text-align: right;">Page 24</p>
<p>1 Mr. Taylor's trainings by Ball as it relates</p> <p>2 specifically to mopping the floor.</p> <p>3 MR. SCHULZ: All right, Lonn, let's</p> <p>4 take that down, please, but keep it handy. If you</p> <p>5 would, please bring up and mark as Exhibit 3 what's in</p> <p>6 our file as Exhibit A.</p> <p>7 (Kendzior Exhibit 3 was marked for</p> <p>8 identification.)</p> <p>9 BY MR. SCHULZ:</p> <p>10 Q All right. Sir, we're looking at Exhibit 3,</p> <p>11 which I think is a collection of your report and your</p> <p>12 CV, which is lengthy, and a list of testimony.</p> <p>13 MR. SCHULZ: Lonn, would you please</p> <p>14 just scroll up and down a bit so that the witness can</p> <p>15 orient himself, please?</p> <p>16 BY MR. SCHULZ:</p> <p>17 Q Is this all looking familiar, sir?</p> <p>18 A Yes.</p> <p>19 Q Great.</p> <p>20 MR. SCHULZ: Lonn, would you please get</p> <p>21 to page 33 of the PDF? Sorry. Page 16.</p> <p>22 MR. PARSONS: What was that, Karl?</p> <p>23 MR. SCHULZ: If you would, please get</p> <p>24 to page 16 of the PDF.</p> <p>25 MR. PARSONS: Sixteen. You just broke</p> <p style="text-align: right;">Page 23</p>	<p>1 yourself?</p> <p>2 A No, I'm not.</p> <p>3 Q But you're a member of this organization?</p> <p>4 A Yes. It -- I don't know if I'm still a</p> <p>5 member of the organization, but it's a -- it's an</p> <p>6 association that I've been aligned with.</p> <p>7 Q Did you learn about fraud examination and</p> <p>8 how to do at least some of it yourself?</p> <p>9 A No. I'm not a fraud examiner.</p> <p>10 Q Is fraud an issue with regard to slip, trip,</p> <p>11 and fall claims?</p> <p>12 A Certainly. Fraud is associated with many</p> <p>13 different types of claims. In the area of slip, trip,</p> <p>14 and fall, it's -- a very, very small percentage of</p> <p>15 claims are considered to be fraud. Less than</p> <p>16 10 percent.</p> <p>17 Q Less than 10 percent?</p> <p>18 A Yes.</p> <p>19 Q But every year there are at least some slip,</p> <p>20 trip, and fall claims that are false or exaggerated;</p> <p>21 is that fair?</p> <p>22 A I would presume that's true, yes.</p> <p>23 Q How do claimants fake or exaggerate slip,</p> <p>24 trip, and fall claims?</p> <p>25 A How do they claim or exaggerate?</p> <p style="text-align: right;">Page 25</p>

<p>1 Q Right. What methods do they use?</p> <p>2 A Well, I think I wrote about this in my first</p> <p>3 or second book. There's two different -- generally</p> <p>4 speaking, two different types of fraud. One is hard</p> <p>5 fraud, which is just a individual either stages an</p> <p>6 event, kind of pours water on the floor -- you see</p> <p>7 this on television programs -- and then lays down on</p> <p>8 the floor, claiming they fell. That's -- that's</p> <p>9 considered -- or what's known as hard fraud.</p> <p>10 Then there's a soft fraud. That's where</p> <p>11 somebody actually does get injured, but perhaps it may</p> <p>12 not be as severe as -- as they claim. And it's</p> <p>13 difficult. You know, it's difficult to investigate</p> <p>14 either types of fraud.</p> <p>15 And so again, that's why organizations like</p> <p>16 the American Society of Fraud Examiners and the</p> <p>17 National Insurance Crime Bureau, another organization</p> <p>18 I've worked with -- that's their specialty.</p> <p>19 They -- they investigate those types of matters.</p> <p>20 Q What are some red flags in an incident that</p> <p>21 may be an indication of fraud?</p> <p>22 A There's a wide range of, I guess you can</p> <p>23 call, red flags or yellow flags. If the claimant</p> <p>24 story doesn't make sense. You know, they say they</p> <p>25 were injured in a particular location due to a</p> <p style="text-align: right;">Page 26</p>	<p>1 Very, very few are. But it does hurt the reputation</p> <p>2 of legitimate victims by those who commit fraud. And</p> <p>3 that's true of all forms of fraud.</p> <p>4 Q Is an unwitnessed accident a potential red</p> <p>5 flag for fraud?</p> <p>6 A It could be. Depending on the -- the</p> <p>7 specifics, it could be.</p> <p>8 Q Is a short-time employee a potential red</p> <p>9 flag for fraud?</p> <p>10 A It depends. Again, there's a lot of</p> <p>11 variables that go into -- people who may be unfamiliar</p> <p>12 with a particular workplace are more -- are at a</p> <p>13 greater risk of a hazard because their lack of</p> <p>14 familiarity.</p> <p>15 If people are -- are, for example,</p> <p>16 working -- well, like, Mr. Taylor. He's working for</p> <p>17 a -- a company, ManPower, that puts him on different</p> <p>18 projects daily. That's his job. His job is to go</p> <p>19 to -- from one project to the next project. And so</p> <p>20 he's kind of a day-worker, a short-term employee.</p> <p>21 They're the most vulnerable because they</p> <p>22 usually get the least amount of training, especially</p> <p>23 when they're exposed to a hazardous condition. So</p> <p>24 it -- it depends.</p> <p>25 Q Is a claimant with a criminal history a</p> <p style="text-align: right;">Page 28</p>
<p>1 particular event or hazard, and then you find out</p> <p>2 later that actually didn't happen, that the story</p> <p>3 doesn't make sense. That's the biggest red flag, is,</p> <p>4 you know, the -- the claimant's story simply is</p> <p>5 unclear. Maybe that's the best way to put it.</p> <p>6 That -- that's a red flag.</p> <p>7 Oftentimes, again, just based on my</p> <p>8 understanding of the -- the area of fraud relating to</p> <p>9 slips, trips, and falls, the -- generally, the people</p> <p>10 that commit slip-and-fall or trip-and-fall fraud are</p> <p>11 very, very small. But they're very, very active. And</p> <p>12 so you'll find that another flag is that the person</p> <p>13 has a long history of filing similar claims. That --</p> <p>14 that's a -- that draws attention.</p> <p>15 Third, they tend to oftentimes have a</p> <p>16 better-than-typical understanding of the process by</p> <p>17 which filing claims works. And so there's kind of a</p> <p>18 long list. I think it's in my second book, maybe my</p> <p>19 third book, that I -- that I talked about</p> <p>20 slip-and-fall fraud and -- and some of the red flags</p> <p>21 or flags that are associated with detecting fraud.</p> <p>22 And -- and the reason why that's important</p> <p>23 is because it really hurts the legitimate victim of a</p> <p>24 slip and fall. People tend to think, oh, it's -- you</p> <p>25 know, all these victims are fake. Very few are.</p> <p style="text-align: right;">Page 27</p>	<p>1 potential red flag for fraud?</p> <p>2 A It could be. It depends on the crime, of</p> <p>3 course, and length of time. You know, if somebody got</p> <p>4 a traffic ticket 20 years ago, that's -- doesn't</p> <p>5 necessarily raise a red flag. It's crime in the --</p> <p>6 generally in the same area.</p> <p>7 Remember, fraud -- filing a fraudulent claim</p> <p>8 is -- is a crime. And so if somebody's been doing</p> <p>9 that over time, meaning filing fraudulent claims, then</p> <p>10 that would be the -- that would be the -- the -- more</p> <p>11 likely the -- the red flag.</p> <p>12 Q Is someone with a demonstrated history of</p> <p>13 dishonesty a red flag for a potential fraud?</p> <p>14 A That's a tough question 'cause that would</p> <p>15 exclude pretty much all of our elected officials.</p> <p>16 It's hard to say. You know, we live in a very</p> <p>17 different world today where terms like "fake news" are</p> <p>18 rampant, and truth is sometimes hard to -- to get to</p> <p>19 the bottom of. But yes, obviously, truthfulness</p> <p>20 is -- is important, of course.</p> <p>21 Q Well, sir, in this case, I wasn't talking</p> <p>22 about politicians. I was talking about slip, trip,</p> <p>23 and fall claimants. Is a slip, trip, and fall</p> <p>24 claimant with a demonstrated history of dishonesty a</p> <p>25 red flag for fraud?</p> <p style="text-align: right;">Page 29</p>

<p>1 A I don't know. I -- that -- that would be 2 beyond my ability to deduce. When you say "honesty," 3 that's a -- that's -- dishonesty is in the eye of the 4 beholder. But certainly is -- if somebody has been 5 dishonest in the claims process, all right, as they're 6 filing claims and reporting injuries, and their 7 statements are based on information that is found to 8 be untrue, meaning they've been dishonest, that's -- 9 that's generally more relevant, yes.</p> <p>10 Q Okay. Sorry. Did you say that "dishonesty 11 is in the eye of the beholder"?</p> <p>12 A I said truth and -- yeah, in many ways, you 13 know, we live in a world where truth is in the eye of 14 the beholder. That's -- that's the world we live in. 15 So I'm not making any excuses, but I'm saying what -- 16 what qualifies as dishonesty or lying, or other 17 adjectives, is oftentimes debatable.</p> <p>18 For example, if somebody had an opinion as 19 to an event that they believe is true, and somebody 20 else comes along and says, "I totally disagree. 21 You're wrong," well, were they dishonest? It's really 22 a matter of the claims process.</p> <p>23 That's what my point is, and I guess that 24 was your original question, is, as it relates to red 25 flags for slip-and-fall fraud, is dishonesty an area?</p> <p style="text-align: right;">Page 30</p>	<p>1 Q What's the basis for that opinion?</p> <p>2 A Well, I just said it a moment ago. There's 3 been no evidence provided to me, at all, that would 4 suggest he is. And so to accuse somebody of fraud, 5 you have to have a basis. You have to have some 6 evidence, and there's no evidence in this case, to my 7 knowledge.</p> <p>8 Q Are there potential red flags in this case 9 for fraud?</p> <p>10 A Not really. I -- I don't see any strong 11 indication of fraud in this case. And again, please 12 understand I'm not a professional fraud examiner. 13 I'm -- I have some limited understanding of those 14 conditions, but I am not a -- I'm not a fraud 15 examiner. I'm not a professional fraud investigator, 16 so I'm probably not qualified to render opinions 17 specifically about fraud in this matter.</p> <p>18 Q So if you're not qualified to give opinions 19 about fraud, you're not able to rule it out; are you?</p> <p>20 A Like I said, unless there is evidence 21 provided or presented to me that would suggest that 22 there was some act of fraud, I'm not going to assume 23 that there was.</p> <p>24 Q Sir, I gather you give testimony for both 25 plaintiffs and defendants?</p> <p style="text-align: right;">Page 32</p>
<p>1 Yes, as it relates to the claim that they're -- 2 they're being dishonest about. Not if they lied and 3 said, you know, I didn't have pizza last night, when, 4 in fact, they did.</p> <p>5 Q Is it a red flag for fraud if someone 6 lawyers up quickly after an incident?</p> <p>7 A It depends. In some cases, it could be. In 8 other cases, not necessarily.</p> <p>9 Q Did you rule out fraud in this case with 10 Mr. Taylor?</p> <p>11 A I've been -- I've not been provided or 12 presented with any information that would suggest 13 Mr. Taylor is committing a act of fraud in this 14 particular case. That he, in fact, did slip and fall, 15 and he did injure himself, that's -- I'm taking that 16 as truthfulness.</p> <p>17 Q Well, that's a little different than ruling 18 it out, sir. Did you rule out fraud in this case?</p> <p>19 A I have no evidence to suggest that he's 20 committing any type of fraud.</p> <p>21 Q Okay. "Yes" or "no", please. Did you rule 22 out fraud?</p> <p>23 A Yes. It's my opinion that Mr. Taylor has 24 not committed or is not in the process of committing 25 an act of -- of fraud.</p> <p style="text-align: right;">Page 31</p>	<p>1 A Yes.</p> <p>2 Q Is there a percentage that you can assign to 3 each side?</p> <p>4 A Oh, gosh, I don't know. I've never really 5 sat down and added them all up. I think I've been 6 retained in about 1300 lawsuits representing both 7 plaintiffs and defendants. The vast majority would be 8 representing plaintiffs.</p> <p>9 I would estimate it to be around 75 percent 10 of my retentions are on the -- on the part of a 11 plaintiff, and the remaining 25 percent would be 12 retentions from a defendant.</p> <p>13 Q Have you ever been retained by Mr. Buzbee's 14 firm or attorneys in his firm before?</p> <p>15 A I have, I think, or have had a previous case 16 or -- or a second case with the same firm. I don't 17 know the time proximity, but I think there was a -- a 18 previous case.</p> <p>19 Q Just one other, though?</p> <p>20 A I think so. I haven't gone through and -- 21 as I mentioned, after 1300 cases, they kind of -- kind 22 of turn into a -- they kind of get blurry. But I do 23 have a list of past cases that I assume you have, 24 all -- all my retentions. And if you want to go 25 through the list to see if there's any other</p> <p style="text-align: right;">Page 33</p>

<p>1 retentions, there -- there may be. I'm just not aware 2 of them.</p> <p>3 Q Have you ever had your opinions or testimony 4 limited or stricken by a Court?</p> <p>5 A I've had -- yeah, I've had a couple of cases 6 where federal judges, federal cases, felt that my 7 testimony would not be needed, not on the basis of 8 qualifications, but they felt that the case would be 9 easily presented without expert testimony, 10 specifically my testimony.</p> <p>11 Q Have you ever been qualified as an expert in 12 the Southern District of Texas where this case is 13 pending?</p> <p>14 A I don't keep track of all the courts that 15 I've been -- been in and been accepted by, but it's -- 16 it's probable that I have, yes.</p> <p>17 Q One of those cases where the Court decided 18 that your opinions would not be helpful to the jury 19 was in the Southern District of Texas; wasn't it?</p> <p>20 A I don't know.</p> <p>21 MR. SCHULZ: Okay. Lonn, can you 22 please bring up the Jenkins case, and mark it as the 23 next Exhibit 4.</p> <p>24 (Kendzior Exhibit 4 was marked for 25 identification.)</p> <p style="text-align: right;">Page 34</p>	<p>1 slippery condition. And the standard of care requires 2 that walkways in industrial locations like this, or 3 workplace, have to be maintained dry and in a sanitary 4 condition, and the rule calls for that to be 5 slip-resistant.</p> <p>6 So if you have a oil spill -- and oil spills 7 happen -- in this case, hydraulic fluid, you need to 8 barricade the area and not permit workers into the 9 area until the hazardous condition is removed, cleaned 10 properly. And then the barricades would be taken 11 down, and workers would be allowed to enter that 12 workplace.</p> <p>13 Q Okay. And we've already established, sir, 14 that you didn't test the surface, any fluids, or 15 coefficient of friction in this case; correct?</p> <p>16 A That's correct.</p> <p>17 Q And you don't know the makeup of the oil or 18 hydraulic fluid from the machines?</p> <p>19 A No, I've not actually examined the actual 20 fluid. And I -- my understanding, it was hydraulic 21 fluid, which is oil -- an oil-based product.</p> <p>22 Q Sure. But we don't know what particular 23 brand or grade; is that correct?</p> <p>24 A Yeah. I -- I don't know. That's correct.</p> <p>25 Q Okay. And you didn't examine the soap</p> <p style="text-align: right;">Page 36</p>
<p>1 All right. Lonn, can you please scoot 2 down to the next page?</p> <p>3 BY MR. SCHULZ:</p> <p>4 Q All right. Sir, do you remember a case 5 called Jenkins vs. Helmerich & Payne International 6 Drilling Company?</p> <p>7 A No, not offhand.</p> <p>8 Q Looks like that was Arnold & Itkin out of 9 Houston here. Do you recall that one at all?</p> <p>10 A No.</p> <p>11 MR. SCHULZ: Okay. Lonn, we're going 12 to be toggling back and forth between this opinion and 13 the previous report. So let's go back to the 14 witness's report and look at page 4 of the PDF. This 15 is it. Thank you.</p> <p>16 BY MR. SCHULZ:</p> <p>17 Q All right. Sir, your first opinion in this 18 case is listed here, number 1. "The condition of the 19 walkway at the time of Mr. Taylor's fall constituted a 20 dangerous condition and posed an unreasonable risk of 21 harm." Is that your opinion, sir?</p> <p>22 A Yes.</p> <p>23 Q And what was the basis for that opinion?</p> <p>24 A Well, the presence of hydraulic fluid on a 25 workplace walkway or working surface constitutes a</p> <p style="text-align: right;">Page 35</p>	<p>1 either?</p> <p>2 A That's correct.</p> <p>3 MR. SCHULZ: Okay. Lonn, let's go back 4 to the Jenkins opinion on page 6 of the PDF. That's 5 it. Yeah. Oh, down a little bit, please.</p> <p>6 BY MR. SCHULZ:</p> <p>7 Q So, sir, it looks like, in the Jenkins case, 8 you gave a very similar opinion; is that fair?</p> <p>9 A I don't remember. I may have.</p> <p>10 MR. SCHULZ: Okay. Let's scoot down a 11 little bit more, please.</p> <p>12 BY MR. SCHULZ:</p> <p>13 Q The Court states here that "Kendzior ran no 14 tests on the stairs or the contaminating material. He 15 does not know what the coefficient of friction was for 16 the contaminated stairs. He does not know the true 17 makeup of the contaminating materials. His opinion, 18 then, is ... not the product of any testable 19 methodology or evidence-based analysis. Consequently, 20 Kendzior's opinion on the danger posed by the stairs 21 does not appear reliable." Did I read that correctly, 22 sir?</p> <p>23 A Yes.</p> <p>24 Q Was your analysis, in this case, any 25 different from what the Court found was insufficient</p> <p style="text-align: right;">Page 37</p>

<p>1 in Jenkins that I just read to you?</p> <p>2 A I don't know. I'm -- I'm not familiar -- I</p> <p>3 don't recall this case.</p> <p>4 Q Okay. But suffice it to say, sir, you don't</p> <p>5 know the true makeup of the oil, the soap, or the</p> <p>6 water; is that correct?</p> <p>7 A Well, it may be impossible to know that, so.</p> <p>8 For example, if I was to go out today and want to take</p> <p>9 measurements of the coefficient of friction of the</p> <p>10 floor, the first thing -- the first thing you have to</p> <p>11 recognize is it's a different floor, different</p> <p>12 surface -- potentially different surface contaminant.</p> <p>13 I don't know the volume of contaminant that was on the</p> <p>14 floor. There's a lot of variables that would have</p> <p>15 potentially changed the condition.</p> <p>16 And so by taking test results of a -- of oil</p> <p>17 on the floor, first of all, there's no standard. And</p> <p>18 in this particular case on the screen, there's no</p> <p>19 standard, no scientific methodology that's published</p> <p>20 to take measurements of mud or whatever this product</p> <p>21 was on the stairs.</p> <p>22 Nor is there a standard for measuring the</p> <p>23 slip-resistance of hydraulic fluid on a floor. The</p> <p>24 standards that are published through the National</p> <p>25 Floor Safety Institute don't call for oil or hydraulic</p> <p style="text-align: right;">Page 38</p>	<p>1 this case 'cause I wasn't doing -- I didn't do any</p> <p>2 testing of the -- the surface in question -- somehow</p> <p>3 would disqualify me from rendering opinions.</p> <p>4 And my -- my point is, 99.999 percent of the</p> <p>5 time somebody slips and falls, the condition will</p> <p>6 change before experts, whether it's myself or somebody</p> <p>7 else, are retained. So you can, you know, throw a</p> <p>8 case out, if you will. And by the way, that's --</p> <p>9 that's typical. Federal judges don't like</p> <p>10 slip-and-fall cases, so they find every reason, in my</p> <p>11 opinion, to get rid of them. They just don't like</p> <p>12 them. And so this is, I guess, as good of a reason as</p> <p>13 any.</p> <p>14 But my point is, you can -- you can say that</p> <p>15 about every slip-and-fall case, all right. Because</p> <p>16 you didn't go out and test it immediately at the time</p> <p>17 the person fell, you -- your -- your knowledge, your</p> <p>18 understanding, the facts really don't matter. All</p> <p>19 that matters is testing. And it's actually the</p> <p>20 opposite.</p> <p>21 The testing is -- is, in many times,</p> <p>22 irrelevant 'cause you can't reproduce the actual exact</p> <p>23 conditions. In some -- in some cases, testing is more</p> <p>24 relevant in a -- in a lawsuit. But in this case, it</p> <p>25 would be very hard to replicate, so why confuse the</p> <p style="text-align: right;">Page 40</p>
<p>1 fluid or mud on stairs, but rather water with a small</p> <p>2 amount of SLS, which is a soap-like substance.</p> <p>3 And so perhaps, in this case that's on the</p> <p>4 screen, that was not made clear by the retaining</p> <p>5 attorney. So doing tests on a surface that there is</p> <p>6 no scientific basis for -- for conducting that test</p> <p>7 would only mislead the Court.</p> <p>8 And the same is true in this case. This</p> <p>9 particular event took place in 2021, two years ago. I</p> <p>10 was retained in this case a year after that, and so</p> <p>11 the condition of the worksite were different from the</p> <p>12 time of the event to the time I was retained.</p> <p>13 And so it's -- I guess it would be fair to</p> <p>14 say putting oil on a floor would -- would constitute</p> <p>15 an unreasonably dangerous condition given that oil is</p> <p>16 a lubricant. That's what it's used for. And having a</p> <p>17 lubricant on a floor, regardless of the specific</p> <p>18 coefficient of friction, would present a slip hazard.</p> <p>19 Q So by the time you came along, the facts</p> <p>20 that you would have needed regarding the material and</p> <p>21 the surface were unknowable?</p> <p>22 A No, that's not what I'm saying. We're</p> <p>23 talking about testing. The document you have on the</p> <p>24 screen suggests that, because I didn't do any</p> <p>25 testing -- and I guess that's what you're asking me in</p> <p style="text-align: right;">Page 39</p>	<p>1 jury? Especially since the methodology is not</p> <p>2 specific to measuring the slip-resistance of hydraulic</p> <p>3 fluid on a concrete floor.</p> <p>4 Q But it sounded, by your earlier testimony,</p> <p>5 sir, that there is no methodology that could be</p> <p>6 applied. I think you mentioned that there were no</p> <p>7 standards for testing or measuring by various national</p> <p>8 organizations; is that correct?</p> <p>9 A Yes. And that's, you know -- that's --</p> <p>10 oftentimes a lot of these matters, just due to</p> <p>11 insufficient good lawyering, get discharged because</p> <p>12 the relevant information, like what you just asked,</p> <p>13 wasn't presented. So you can't test a -- a walkway</p> <p>14 with hydraulic fluid to any national standard with any</p> <p>15 test method. Nothing's recognized.</p> <p>16 You can come up with data and say, wow, oil</p> <p>17 is really slippery on the floor. Well, okay. I think</p> <p>18 that would be fair to say. Everybody would under --</p> <p>19 would understand that. What the exact coefficient of</p> <p>20 friction is, as I was mentioning earlier, is a bit</p> <p>21 irrelevant.</p> <p>22 My onions, as you saw on the screen before,</p> <p>23 speak to the fact that having hydraulic fluid on the</p> <p>24 floor, known to be on the floor, discharging, at the</p> <p>25 time, on the floor, represents an unreasonably</p> <p style="text-align: right;">Page 41</p>

<p>1 dangerous condition to workers who have to work in 2 that area. That's -- that's my opinion. And 3 presumably, that was my opinion in the case that you 4 have on the screen of Jenkins vs. Helmerich & Payne 5 Drilling. 6 MR. SCHULZ: Lonn, let's go back to the 7 witness's report, same page. 8 MR. PARSONS: I'm sorry. Which page 9 was it, Karl? 10 MR. SCHULZ: Four. Sorry. Four of the 11 PDF. 12 BY MR. SCHULZ: 13 Q So, sir, was your second opinion "The 14 defendant knew or reasonably should have known of the 15 dangerous condition of the walkway prior to 16 Mr. Taylor's slip and fall and should have placed 17 absorbent pads on the walkway and posted warning signs 18 as to alert workers to the impending slip hazard"? 19 A That's correct. 20 Q What's the basis for that opinion? 21 A Well, that's the standard of care to -- 22 once -- once a hazardous condition is identified -- in 23 this case, a hazardous condition was being generated 24 by leaking hydraulic fluid on the floor. The 25 defendant's employees were aware of that, had</p> <p style="text-align: right;">Page 42</p>	<p>1 Q Well, you said, in the Taylor case, "The 2 Defendant knew or reasonably should have known of the 3 dangerous condition of the walkway prior to 4 Mr. Taylor's slip and fall and should have placed 5 absorbent pads on the walkway and posted warning signs 6 as to alert workers to the impending slip hazard." 7 So it looks like it's substantially similar 8 except to the last part about pads and warning signs; 9 is that fair? 10 A Yes. 11 Q Okay. The Court in Jenkins opined that the 12 jury didn't need your help in deciding the timeline 13 issues and wasn't helpful and didn't allow you to make 14 that opinion. But you gave that very same opinion, or 15 at least the first part of the opinion, in this case 16 as well; didn't you? 17 A I don't know how to answer your question. I 18 was -- there was no -- I guess, maybe let me back all 19 the way up. Prior to you showing this -- this to me 20 today, sir, I have never seen this. I had no idea 21 that -- any of this. I never testified at trial. I 22 was not informed any of the statements you're going 23 over today, so I don't know. This is kind of news to 24 me. 25 Q Okay. I'll represent to you that this</p> <p style="text-align: right;">Page 44</p>
<p>1 extensive knowledge of that. Repairs were allegedly 2 to be taking place. They -- they were not, and 3 Mr. Taylor was exposed to that hazardous condition, 4 both at the time he started the project with Ball on 5 Saturday, July 24, 2021, as well as the -- the next 6 day, Sunday, July 25th, which is when he slipped and 7 fell. 8 So once a -- I -- once a hazardous condition 9 is identified, items -- well, all four -- five of 10 those opinions would constitute the standard of care. 11 Q Okay. It's your opinion that Mr. Taylor 12 worked on that Saturday as well? 13 A He was there, yeah, the day before, on the 14 24th. 15 Q Wasn't the 24th a Friday? 16 A My understanding it was a Saturday. I may 17 be wrong. 18 MR. SCHULZ: All right. Lonn, let's go 19 back to Jenkins, please. And we're on page 7 of that 20 PDF. 21 BY MR. SCHULZ: 22 Q So number 2 in the Jenkins case looks to be 23 substantially the same as your opinion in the 24 Taylor -- 25 A I don't know. I've not seen this document.</p> <p style="text-align: right;">Page 43</p>	<p>1 opinion was published on December 30, 2021. Does that 2 ring any bells? 3 A No. 4 Q Your report in this case was written after 5 December 30, 2021; wasn't it? 6 A Yes. 7 Q You have a further opinion about putting 8 down absorbent pads and posting warning signs. 9 MR. SCHULZ: And, Lonn, let's go back 10 to his report for that one. Page 4. Thank you. 11 BY MR. SCHULZ: 12 Q All right. Sir, do you see that part about 13 "absorbent pads" and "signs"? 14 A Yes. 15 Q Does a jury need you to tell them that there 16 should be absorbent pads to cover up or mop up a leak? 17 A Well, absorbent pads are not used to cover 18 up or mop up. They're used as a means of containment. 19 And yes, I think the average juror would probably 20 misunderstand that as, no offense, you've kind of 21 misunderstood it. 22 And so yes, it does require somebody that 23 has experience and knowledge and training in this area 24 to identify and, I guess, to describe the standard of 25 care as it relates to what -- what does a</p> <p style="text-align: right;">Page 45</p>

<p>1 and absorbing hydraulic fluid.</p> <p>2 Those types of products would be required in</p> <p>3 this case, versus, say, a rag that was used, you know,</p> <p>4 hanging out of a janitor's pocket. That's really not</p> <p>5 an appropriate way to remove hydraulic fluid from a</p> <p>6 floor.</p> <p>7 MR. SCHULZ: Objection. Nonresponsive.</p> <p>8 BY MR. SCHULZ:</p> <p>9 Q Sir, you didn't test the rags or bucket in</p> <p>10 this case, so you can't say they're insufficient; can</p> <p>11 you?</p> <p>12 A I don't know what rags Ball uses. And</p> <p>13 you're -- are you stating that they're -- that they</p> <p>14 did use rags to remove this hydraulic fluid? Is that</p> <p>15 what you're stating? 'Cause I was unaware of how they</p> <p>16 removed the hydraulic fluid.</p> <p>17 Q Okay. So you're not aware of how they</p> <p>18 removed hydraulic fluid, so you're not able to say,</p> <p>19 one way or the other, whether their method was</p> <p>20 sufficient?</p> <p>21 A I don't know if they removed the hydraulic</p> <p>22 fluid, how they removed the hydraulic fluid, what</p> <p>23 containment methods they used to contain the hydraulic</p> <p>24 fluid, and what materials they used to absorb the</p> <p>25 hydraulic fluid. And then, lastly, I -- I don't know</p> <p style="text-align: right;">Page 50</p>	<p>1 fluid on the floor. That's my understanding.</p> <p>2 Q Okay. Do you have any way to independently</p> <p>3 verify Mr. Taylor's statement regarding what he</p> <p>4 slipped on?</p> <p>5 A Independently verify. I don't know what you</p> <p>6 mean by that.</p> <p>7 Q Well, one guy told me he slipped on soap.</p> <p>8 Did you do anything else to check that statement?</p> <p>9 A I -- I don't know what other people's</p> <p>10 opinions are or -- was that a deposition, you're</p> <p>11 saying?</p> <p>12 Q Well, no. Sir, my question is, besides</p> <p>13 reading Mr. Taylor's deposition testimony, did you do</p> <p>14 anything to check and see whether the thing that he</p> <p>15 allegedly slipped on --</p> <p>16 A Well, there were photographs of the</p> <p>17 hydraulic hose leaking.</p> <p>18 Q Okay. Did he slip in the area of the</p> <p>19 photograph?</p> <p>20 A Yes, that's my understanding. It was the</p> <p>21 same general area.</p> <p>22 Q Well, the same general area or the place</p> <p>23 where he slipped?</p> <p>24 A Well, I don't know how to answer that</p> <p>25 question. It's -- to me, it's all the same. The</p> <p style="text-align: right;">Page 52</p>
<p>1 how they disposed of the hydraulic fluid that was</p> <p>2 removed from the floor.</p> <p>3 Q Do you know for sure that there was</p> <p>4 hydraulic fluid on the part of the floor where</p> <p>5 Mr. Taylor allegedly slipped?</p> <p>6 A That's my understanding, yes.</p> <p>7 Q Well, what is your understanding based on?</p> <p>8 A His testimony.</p> <p>9 Q Aside from Mr. Taylor's testimony, do you</p> <p>10 have anything else to -- well, first of all, where did</p> <p>11 Mr. Taylor say he slipped on oil?</p> <p>12 A By the baler, the equipment that he was</p> <p>13 working next to.</p> <p>14 Q Mr. Taylor, you're saying, specifically</p> <p>15 testified that he slipped on oil?</p> <p>16 A Well, he said there was oil. I don't know</p> <p>17 if he described it as hydraulic fluid, but he -- I</p> <p>18 don't know the exact phrase, but he said that the --</p> <p>19 the machine was discharging -- spraying out oil on the</p> <p>20 floor at a pretty steady rate. Quite a bit of liquid</p> <p>21 was discharged on the floor and was in the -- some</p> <p>22 form of repair.</p> <p>23 They were going to be repairing the</p> <p>24 broke --- I think it was a broken hose -- hydraulic</p> <p>25 hose that broke, and it was spraying out hydraulic</p> <p style="text-align: right;">Page 51</p>	<p>1 location where the hydraulic fluid was being sprayed</p> <p>2 out was the same location where Mr. Taylor had slipped</p> <p>3 and fallen.</p> <p>4 Q Did Mr. Taylor slip on soapy water?</p> <p>5 A No. My understanding is it was hydraulic</p> <p>6 fluid. Now, there may have been some mopping that was</p> <p>7 done that may have just spread the hydraulic fluid via</p> <p>8 the mop, or -- which oftentimes very common is workers</p> <p>9 walking through the hydraulic fluid will track it to a</p> <p>10 larger area. But at the end of the day, the hazardous</p> <p>11 material, the -- the substance that Mr. Taylor slipped</p> <p>12 and fell on, was hydraulic fluid.</p> <p>13 Q Can you guarantee that Mr. Taylor would not</p> <p>14 have slipped if Ball had taken the corrective actions</p> <p>15 that you suggest in your report?</p> <p>16 A Well, I don't suggest in my report that</p> <p>17 there was any guarantee. It's actually a matter of,</p> <p>18 was it more reasonable or not? And the answer is yes.</p> <p>19 If the floor was properly maintained, clean and clear</p> <p>20 of the hazardous substance, in this case, hydraulic</p> <p>21 fluid, then it would be less likely -- the risk of</p> <p>22 slipping and falling for workers would be reduced.</p> <p>23 But given that the fact you had a lubricant</p> <p>24 on the floor being discharged, that was on the floor</p> <p>25 for at least a day, maybe two days, that was directly</p> <p style="text-align: right;">Page 53</p>

<p>1 Q What is the basis for your opinion?</p> <p>2 A Well, the defendant knew that there was a</p> <p>3 hazardous condition present in the location where</p> <p>4 Mr. Taylor was working, both on the day of his fall</p> <p>5 and the previous day. The defendant made no effort to</p> <p>6 cordon that area off, to barricade the area, as to</p> <p>7 prohibit Mr. Taylor from entering it.</p> <p>8 They made no effort to properly contain the</p> <p>9 hazardous condition, in this case, hydraulic fluid,</p> <p>10 from spreading onto the floor, meaning people</p> <p>11 could -- other workers could be walking through it,</p> <p>12 trafficking -- or tracking that contaminant in an area</p> <p>13 beyond just where it's being created.</p> <p>14 And so the defendant also, presumably, had</p> <p>15 the ability to contain, restrict, warn, and barricade</p> <p>16 the area, number one, and then, secondly, had a</p> <p>17 responsibility to inform Mr. Taylor, who was not their</p> <p>18 employee -- he was a contracted worker -- to simply</p> <p>19 not go into the area until it gets cleaned up and it's</p> <p>20 safe to go into.</p> <p>21 Q Did you see evidence that Ball was</p> <p>22 undertaking efforts to fix the leak from occurring?</p> <p>23 A No. They said they were going to fix it,</p> <p>24 but, for whatever reason, it didn't get repaired. It</p> <p>25 continued to leak the second day.</p> <p style="text-align: right;">Page 62</p>	<p>1 where the spill was -- was at, the hydraulic fluid was</p> <p>2 being spilled onto the floor. That's what they did</p> <p>3 not make a effort on.</p> <p>4 Q What areas of the floor was the hydraulic</p> <p>5 area -- hydraulic fluid being spilled?</p> <p>6 A What area of the floor was the hydraulic</p> <p>7 fluid on?</p> <p>8 Q Yes.</p> <p>9 A Yeah, it was right by the baler, the -- the</p> <p>10 equipment that you see on the surveillance video where</p> <p>11 Mr. Taylor was kind of behind. The camera, of course,</p> <p>12 doesn't capture him falling, but you see the location</p> <p>13 of the work area that Mr. Taylor was working in. And</p> <p>14 it was presumably that device that you see on the</p> <p>15 surveillance video, the equipment.</p> <p>16 Q So what's your basis for saying that the</p> <p>17 hydraulic fluid was there?</p> <p>18 A What basis is there for saying hydraulic</p> <p>19 fluid was there? Well, that's -- that's what this</p> <p>20 case is about; right? I mean, is -- is anybody</p> <p>21 contending that there was not hydraulic fluid on</p> <p>22 the -- on the ground? I didn't hear that.</p> <p>23 Q Well, sir, my question to you was, as to the</p> <p>24 presence or absence of hydraulic fluid in the area</p> <p>25 where Mr. Taylor allegedly slipped, what is your basis</p> <p style="text-align: right;">Page 64</p>
<p>1 Q So my question was a little different. Did</p> <p>2 you see any evidence of efforts to fix it at all?</p> <p>3 A What do you mean by "effort to fix"?</p> <p>4 Q I guess, my question is this: does fixing a</p> <p>5 thing that is causing a leak constitute a proper</p> <p>6 effort to stop the leak? I'm just talking about</p> <p>7 conceptually now in general.</p> <p>8 A Well, it depends. Obviously, they wanted to</p> <p>9 fix the broken hose or the leaking hose to get the</p> <p>10 equipment up and running, so that's the purpose of</p> <p>11 fixing it. The secondary response to fixing it is</p> <p>12 that it would no longer be spilling hydraulic fluid on</p> <p>13 the floor.</p> <p>14 And so fixing it not only gets the equipment</p> <p>15 up and running again, which is the business they're</p> <p>16 in, and it also stops the spread of hydraulic fluid on</p> <p>17 the floor, which is a safety benefit.</p> <p>18 Q And you're saying that Ball made no effort</p> <p>19 to fix the machine so that it wouldn't leak?</p> <p>20 A No, they made an effort on the first part,</p> <p>21 to attempt to repair the hose to get the equipment up</p> <p>22 and running. But they did not make an effort to</p> <p>23 contain the spill, remove the spill -- when I say "the</p> <p>24 spill," again, hydraulic fluid -- warn of the spill,</p> <p>25 and, most importantly, restrict access to the area</p> <p style="text-align: right;">Page 63</p>	<p>1 for saying that there was such hydraulic fluid?</p> <p>2 A Well, that's what the photographs show.</p> <p>3 That's what Mr. Taylor stated. He did, in fact, slip</p> <p>4 and fall. And the evidence all points to leaking</p> <p>5 hydraulic fluid onto the floor as the basis by which</p> <p>6 the unreasonably dangerous condition was created.</p> <p>7 Q What's your basis for saying, "He did, in</p> <p>8 fact, slip and fall"?</p> <p>9 A Well, it -- why are we here? He -- the man</p> <p>10 fell; right? He slipped and fell and injured himself.</p> <p>11 In fact, you see him walking around behind the</p> <p>12 equipment, kind of limping.</p> <p>13 There is another worker -- I don't know who</p> <p>14 the gentleman was -- that you see walk around the</p> <p>15 equipment and, presumably, help Mr. -- Mr. Taylor up</p> <p>16 off the ground. I don't know who the gentleman is</p> <p>17 seen on the surveillance video, but I guess I would</p> <p>18 call him a potential witness. He was actually there.</p> <p>19 He saw the -- Mr. Taylor's -- you know, on the ground,</p> <p>20 so.</p> <p>21 Q So I'm just curious. You're stating it as a</p> <p>22 fact that Mr. Taylor slipped and fall -- fell. I just</p> <p>23 want to know your basis for that.</p> <p>24 A Well, that's my understanding. That's</p> <p>25 the -- the facts and evidence. What I've been</p> <p style="text-align: right;">Page 65</p>

<p>1 to arrive at a conclusion regarding a dangerous 2 condition at Ball's facility; is that correct? 3 A That's what the -- the document states. 4 Yes. 5 Q Well, no, sir. My question is, in the 6 Taylor case, did you also not use a testing method, 7 testing battery, or national standard to arrive at 8 your conclusion about the dangerous condition of the 9 surface? 10 A Well, those are two different questions. I 11 did not perform any testing. As I mentioned earlier, 12 there's no way to test that particular surface with 13 any credibility. And so testing a surface via an -- 14 an orthodox or undefined principle, in -- in my 15 industry, as a scientist would be simply to confuse or 16 mislead the jury. And so no, in the absence of a 17 recognized test method, testing was not done. 18 Q So we've seen three opinions from the 19 Jenkins case that are very similar to your opinions in 20 this case. Do your reports follow a form? 21 A Does my what follow a form? 22 Q Do your reports that you publish follow a 23 form? 24 A Generally speaking, yes. 25 Q How often do you conclude the points 1, 2, Page 70</p>	<p>1 plaintiffs' cases involving slips on surfaces. How 2 often do you reach these same conclusions in reports 3 that you're writing? 4 A Well, it depends. My conclusions are not 5 the same in every case. There may be elements of my 6 report that are duplicative, as you're pointing out in 7 this Jenkins matter. But keep in mind, Mr. Schulz, I 8 work on over a thousand cases. Many of them are very 9 similar in nature, so it's the same pattern. Not the 10 same result, not the same facts, but the same trend, 11 the same issue. Maybe that's a better word to use. 12 And so a workplace slip and fall would be 13 kind of like this case. What are the rules that 14 govern a workplace slip and fall? Well, I detail 15 those in my report, and that's specific to this type 16 of a case. 17 But a slip and fall in a bathtub, well, 18 that's -- there's no OSHA requirements for that 19 or -- it's a different set of standards and -- and of 20 course, draws different conclusions and opinions. 21 Q How often have you opined that a walking 22 surface "constituted a dangerous condition and posed 23 an unreasonable risk of harm"? 24 A When it does. 25 Q Out of your thousand cases, what number? Page 72</p>
<p>1 and 3, or something very similar to it, in your 2 reports that you publish? 3 A Well, it depends on the matter. In -- when 4 I'm representing an opinion on a specific type of 5 incident, whether it's a trip and fall, that would be 6 a different form. When I say "form," it -- outline. 7 Maybe that's a better word. That would be specific to 8 that particular case. 9 If I'm working on a matter of a -- of a slip 10 and fall in a bathtub, that would follow a different 11 format or outline. The same is true in this case. 12 And so my reports are structured, as you can see, 13 Mr. Schulz, to be very much to the point. I don't 14 want to waste a lot of time. I'm not going to write a 15 28-page report, of which 26 pages is meaningless 16 bologna to confuse everybody. 17 I'm going to write a report as my format, 18 guideline, to kind of get to the -- get to the point. 19 What happened? What are the standards that are 20 applicable? Was there a breach of those standards, 21 meaning the standard of care? And if so, why? That's 22 my -- that's my form or guide -- guideline that I'm 23 referring to. 24 Q So let's eliminate bathtub cases and let's 25 eliminate trip and falls. And let's focus on Page 71</p>	<p>1 A Oh, I don't know. I -- I work on such 2 a -- such a diverse group. Let me back up. It might 3 be helpful. I get calls every day from lawyers. A 4 lot of cases I get presented, I say, can't help you, 5 or I don't believe you -- your client. Or, sorry, you 6 got the wrong guy. And so of the 1300 cases that I've 7 been retained in, there's probably another 700 that I 8 just turn down. I -- I'm not going to get involved. 9 The case has to have merit, credibility, 10 facts. It has to make sense. And if it doesn't make 11 sense, I'm not -- I'm not interested because I really 12 don't get involved in everybody's slip-and-fall case. 13 So I do screening of every case and want to make sure 14 I know it's -- what's at hand, what's -- what's going 15 on. And this case is no -- no different. 16 MR. SCHULZ: Objection to the 17 nonresponsive portion of the answer. 18 Lonn, let's go back, please, to the 19 witness's report. Thank you. We're on page 4. 20 BY MR. SCHULZ: 21 Q All right. Number 4 on your screen, sir, is 22 that your opinion regarding "prior to Mr. Taylor's 23 fall"? 24 A Yes. 25 Q What's the basis for that opinion? Page 73</p>

<p>1 is no expert rhyme or reason to the underlying 2 opinion. As a result, Kendzior's input on causation 3 would not help the jury." Do you remember that? 4 A No. 5 Q What was the Brower case about? 6 A I don't remember. Obviously, a slip and 7 fall. I don't remember the -- the details of that 8 case. 9 Q Do you recall that there was a video in the 10 Jenkins case? 11 A Nope. Honestly, sir, I work on cases every 12 day, and to ask me about a case three years ago is 13 like asking me what I ate for dinner three years ago. 14 I -- unless -- unless I have that in front of me, 15 I -- I don't have that file, so I'm not here to speak 16 about a case I worked on two years ago or -- or from 17 memory. 18 Q Well, sir, this Brower case was pretty 19 important in the Southern District of Texas, so that's 20 why I'm asking about it. 21 A Yeah. Well, hey, judges have opinions too, 22 right? I'm not -- not questioning that. 23 Q Where in your report, sir, do you evaluate 24 anything that Mr. Taylor did or didn't do that may 25 have caused or contributed to his alleged fall?</p> <p style="text-align: right;">Page 78</p>	<p>1 Q So you didn't specifically address 2 Mr. Taylor's acts or omissions in your report? 3 A Again, it's just based on the facts that 4 I've been presented, the evidence I've reviewed. I'm 5 not here to speculate about what Mr. Taylor could have 6 done. Okay. I don't -- I don't do that, generally. 7 Q Did you rule out Mr. Taylor's acts or 8 omissions as a cause of the loss? 9 A I don't -- I didn't rule it in or rule it 10 out. I just don't have any information that would 11 suggest he did anything unreasonable, that he did 12 something to cause his fall that was otherwise 13 preventable. I -- I don't -- I don't have any 14 information along those lines. 15 Q Should you always evaluate whether a person 16 contributed to his or her own slip and fall? 17 A It depends on the facts of the case. For 18 example, if this area was barricaded -- and you -- you 19 asked this question a moment ago. If the area was 20 barricaded and Mr. Taylor breached the barricades, he 21 walked around them, yeah -- yeah, then he would have 22 some responsibility for that injury. But there's no 23 evidence to suggest anything like that that occurred 24 in this case. 25 Q Would you agree with me that someone working</p> <p style="text-align: right;">Page 80</p>
<p>1 A I have no knowledge or evidence that he did 2 anything that contributed to his fall. He was just 3 working. As you see in the surveillance video, wasn't 4 running, didn't appear to be preoccupied. He was just 5 doing his job. 6 Q My question was a little different, sir. 7 Did you expressly evaluate anything in your report or 8 analysis in your report regarding anything that 9 Mr. Taylor may have done to contribute to the 10 incident? 11 A Well, again, it's -- there's no evidence 12 that suggests he was doing anything unreasonable, so 13 why would I cite that? 14 Q Well, did you eliminate it as a potential 15 cause of the incident? 16 A Eliminate what? 17 Q Mr. Taylor's acts or inaction. 18 A As I just said, what? What acts? What acts 19 did he -- I mean, tell me what you mean by that. 20 Q Well, I'm just asking, sir, is there 21 anything in your report where you note -- that you say 22 something like, nothing Mr. Taylor did was wrong? 23 Nothing he did contributed? 24 A No, I don't recall putting -- that's not in 25 my report.</p> <p style="text-align: right;">Page 79</p>	<p>1 in a manufacturing setting should have his eyes on the 2 path? 3 A Rely upon what? 4 Q Sorry. Let me say that again. Would you 5 agree with me that someone working in a manufacturing 6 setting should have his eyes on the path where he's 7 walking? 8 A Well, certainly. Not just in a 9 manufacturing setting, but anywhere. As you're 10 walking out of your office to your car, for example. 11 Q What's your evidence for saying Mr. Taylor 12 had his eyes on the path? 13 A Well, what evidence is there to say he -- he 14 didn't? I -- my point is I don't have evidence to 15 suggest he did anything unreasonable. That's my 16 point. 17 Q Would you agree with me that, when 18 Mr. Taylor entered Ball's facility, he had at least 19 some responsibility for his own safety? 20 A Yes. 21 Q What is that responsibility? 22 A Well, he wants to ensure that he's doing his 23 job in a safe way; that he has proper equipment, 24 proper shoes, footwear, training, information, all the 25 things that go with him performing his function,</p> <p style="text-align: right;">Page 81</p>

<p>1 condition of his employment where they said, hey, if 2 you want to work for Ball, you got to sign off on 3 these policies and procedures. I'm not even certain 4 he read them. But that's for you to take up with him. 5 Q If Mr. Taylor signed off on these policies 6 and procedures, is he bound by them? 7 A I don't know. That's a legal question. 8 Q Do you think it's appropriate for employers, 9 even temporary employers, to put policies and 10 procedures in place that include employee 11 responsibilities? 12 A Well, he's not an employee of Ball; right? 13 So yeah, of course, you can't -- you can't hold 14 someone who is not an employee to employee policies 15 and responsibilities. 16 Q My question, though, sir, was employers, 17 even temporary employers, so. Anyway, I can see where 18 you were going. But suffice it to say, you didn't 19 review Mr. Taylor's agreements with Ball, if any, so 20 you can't opine on them one way or another? 21 A That's correct. And again, I'm not here to 22 argue his status of employment, but he was not an 23 employee. He was not a temporary employee. My 24 understanding is Mr. Taylor was a contracted employee. 25 He -- his employer was ManPower. That was his</p> <p style="text-align: right;">Page 86</p>	<p>1 steals a car out of our parking -- parking lot, 2 Mr. Taylor, you're responsible. Well, he signed the 3 bottom of the form, so I guess he's responsible. 4 If you read these -- these policies and 5 procedures -- look at number 6. Look at number -- go 6 through every one of them. It's clearly written for 7 employees of Ball, not for contracted employees. 8 Every single sentence -- you know, "company-furnished 9 uniforms." Mr. -- Mr. Taylor wasn't given a 10 company-furnished uniform; right? I mean, just -- 11 Q Sir, as to Mr. Taylor, does he have a 12 responsibility to see something, say something, if he 13 sees a dangerous condition in his workplace? 14 A I don't know. Say something and to who? 15 Maybe that's the question I need to ask. To ManPower? 16 Who -- who would he say something to? 17 Q So you just don't know? 18 A No, I'm asking the question. You're -- 19 you're asking me a question about say -- see 20 something, say something. And my -- my question to 21 you is, what -- to whom are you suggesting he should 22 have said something to? 23 Q Anyone to anything. 24 A I'm not laughing at you. It's just, what 25 does that mean?</p> <p style="text-align: right;">Page 88</p>
<p>1 employer. 2 And he was given a -- a project at Ball's 3 facility. And so he should be given the same level of 4 concern as it relates to safety as any of the Ball 5 employees should be granted. That's my point. 6 Q Under 3.2, it says "It is each employee's 7 duty to participate in the accident prevention program 8 by being alert for unsafe or potentially substandard 9 conditions or acts, and doing his or her part to 10 correct the situation by immediately reporting any 11 such conditions or acts to his or her supervisor." 12 Does Mr. Taylor have that responsibility to Ball? 13 A No. But that's a good point because what 14 it -- what it says is what I've been saying. Ball's 15 employees, people who get a paycheck from Ball, that's 16 their responsibility, is to safeguard. Exactly. But 17 they didn't. 18 Q So I just want to be clear. See something, 19 say something, does not apply to Jaasin Taylor? 20 A Does it? 21 Q That's my question to you, sir. 22 A I'm asking. I don't know. Say -- say what 23 to who? He didn't -- he was not a -- he was there on 24 his second day. I -- I mean, it -- really? It's like 25 saying, hey, you signed a policy that says if anybody</p> <p style="text-align: right;">Page 87</p>	<p>1 Q Well, sir, I -- you ride the -- 2 A What does that mean? Anything to anybody? 3 Q You ride the subway in New York, the police 4 always say, "You see something, say something." It's 5 not tricky. If you see something that looks weird or 6 dangerous, tell someone who looks responsible. Are 7 you saying that that simple duty or that simple task 8 does not apply to Jaasin Taylor? 9 A No, I'm not saying that. My -- my question, 10 which you may have answered, is, they knew -- Ball 11 knew that this was leaking. So what would he have 12 said to Ball that they already didn't know? Hey, you 13 have a leaking pipe -- hose that's discharging 14 hydraulic fluid all over the floor. 15 They would say, yeah, we know. It's -- 16 we're going to have it fixed tonight. 'Cause that's 17 the facts. They already knew that this was being 18 discharged. So he did, based on your question, see 19 something and said something. 20 Q Do you have any indication that Mr. Taylor 21 said, look, this is too dangerous. Even when I try 22 and mop it, or whatever measures were taken, it's not 23 enough. It's still too dangerous? 24 A I don't know what he said. 25 Q Do you have any -- that Mr. Taylor refused</p> <p style="text-align: right;">Page 89</p>

<p>1 to work and just said, this is plain too dangerous. 2 I'm not doing this anymore? 3 A Well, in hindsight, that's what he should 4 have said. But at the time, I don't know. 5 MR. SCHULZ: Let's take a very short 6 break, please. 7 THE VIDEOGRAPHER: 11:39 a.m. We are 8 off the record. 9 (Off the record.) 10 THE VIDEOGRAPHER: 11:45 a.m. We are 11 on the record. 12 BY MR. SCHULZ: 13 Q Sir, are you ready to continue? 14 A Yes. 15 Q Thank you. 16 MR. SCHULZ: Lonn, could you please 17 bring up the security video? We'll mark it as the 18 next exhibit. 19 (Kendzior Exhibit 6 was marked for 20 identification.) 21 BY MR. SCHULZ: 22 Q All right. Sir, do you recognize this 23 video, at least as it's starting? We haven't -- or 24 we're starting it now, I guess. 25 (Video played.)</p> <p style="text-align: right;">Page 90</p>	<p>1 some type of a liquid -- yes, there you go -- on the 2 floor. I don't know what that is, if that's hydraulic 3 fluid or some other substance. 4 Q Okay. How do we know that's liquid? 5 A Well, it appears to be. It's a different 6 color, different material than the concrete. 7 Q Okay. But are we positive it's liquid, or 8 we think it's liquid? 9 A Well, it appears to be some substance on the 10 floor. 11 Q Is the substance a different color from the 12 floor? 13 A I don't know. It -- based on this camera 14 angle, you -- the -- the higher gloss. That's why I 15 thought it was a -- think it's a liquid. It kind of 16 reflects back to the camera as a different color. But 17 when you're standing over it, it might not be -- well, 18 if it's hydraulic fluid, it's going to be clear. 19 Q Is it fair to say, at least at this vantage 20 point, the floor looks gray and the suspected 21 substance looks white? 22 A Yeah, it looks reflective. Right. 23 MR. SCHULZ: All right. Let's go ahead 24 and hit play, please, Lonn. 25 (Video played.)</p> <p style="text-align: right;">Page 92</p>
<p>1 Do you recognize this? 2 A Yes. 3 Q Is this the security video of the incident 4 area that you reviewed recently? 5 A Yeah. Unfortunately, you can't see the 6 slip-and-fall incident because it's behind the 7 equipment you see in the background, behind the pallet 8 jack and the boxes that are stacked up. But yes. 9 Q Okay. As an initial matter, looking at this 10 video, are you able to tell where there is hydraulic 11 fluid on the floor? 12 A No. 13 Q At any point during the course of the video, 14 are you able to see hydraulic fluid on the floor? 15 A No. Unless the -- I -- I say, "No." 16 There -- it's -- I can't say with certainty. But if 17 you look behind the -- where the forklift is -- and 18 there's a pallet in front of the forklift -- there 19 appears to be some type of a liquid on the floor -- 20 Q I'm going to move my cursor. Are you 21 referring to this white area? 22 A No. I'm saying, if you go up to where the 23 pallet jack is -- or I'm sorry. The -- the pallet -- 24 yeah, forklift. Yeah, right there. If you look to 25 the right of where your cursor is, there appears to be</p> <p style="text-align: right;">Page 91</p>	<p>1 THE WITNESS: Mr. Schulz, I just want 2 to remind you, in ten minutes, I'm going to have to 3 leave. Just to give you heads up. 4 MR. SCHULZ: Understood. 5 BY MR. SCHULZ: 6 Q It looks like the video is buffering. All 7 right. Okay. We're at time code 11:48:29. What do 8 you see Mr. Taylor doing here? 9 A Mopping the floor. 10 Q And is Mr. Taylor using proper mopping 11 technique? 12 A It appears to, yes. 13 Q Where is he mopping, exactly? 14 A Behind the -- well, I don't know what all 15 the equipment is, but there is material handling 16 equipment. There's the -- I guess that's the baling 17 machine. 18 Q Do you have any opinions about how baling 19 machines should function or a possible malfunction? 20 Are you going to testify as to that? 21 A No, sir. 22 Q Mr. Taylor looks like he's walking around 23 now. Where should the barricades have been placed? 24 A The entire area between the green poles that 25 have the yellow bumpers on them. I mean, the entire</p> <p style="text-align: right;">Page 93</p>

<p>1 CERTIFICATE OF DEPOSITION OFFICER</p> <p>2 I, KELSEY PETERSON, the officer before whom</p> <p>3 the foregoing proceedings were taken, do hereby</p> <p>4 certify that any witness(es) in the foregoing</p> <p>5 proceedings, prior to testifying, were duly sworn;</p> <p>6 that the proceedings were recorded by me and</p> <p>7 thereafter reduced to typewriting by a qualified</p> <p>8 transcriptionist; that said digital audio recording of</p> <p>9 said proceedings are a true and accurate record to the</p> <p>10 best of my knowledge, skills, and ability; that I am</p> <p>11 neither counsel for, related to, nor employed by any</p> <p>12 of the parties to the action in which this was taken;</p> <p>13 and, further, that I am not a relative or employee of</p> <p>14 any counsel or attorney employed by the parties</p> <p>15 hereto, nor financially interested in the</p> <p>16 outcome of this action.</p> <p><i>K. Peterson</i></p> <p>17 KELSEY PETERSON</p> <p>18 Notary Public in and for the</p> <p>19 State of Texas</p> <p>20</p> <p>21 [X] Review of the transcript was requested.</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 102</p>	<p>1 Taylor, Jaasin v. Ball Corporation</p> <p>2 Russell J. Kendzior Job No. 5679456</p> <p>3 E R R A T A S H E E T</p> <p>4 PAGE ____ LINE ____ CHANGE ____</p> <p>5</p> <p>6 REASON ____</p> <p>7 PAGE ____ LINE ____ CHANGE ____</p> <p>8</p> <p>9 REASON ____</p> <p>10 PAGE ____ LINE ____ CHANGE ____</p> <p>11</p> <p>12 REASON ____</p> <p>13 PAGE ____ LINE ____ CHANGE ____</p> <p>14</p> <p>15 REASON ____</p> <p>16 PAGE ____ LINE ____ CHANGE ____</p> <p>17</p> <p>18 REASON ____</p> <p>19 PAGE ____ LINE ____ CHANGE ____</p> <p>20</p> <p>21 REASON ____</p> <p>22</p> <p>23</p> <p>24 Russell J. Kendzior Date</p> <p>25</p> <p style="text-align: right;">Page 104</p>
<p>1 CERTIFICATE OF TRANSCRIBER</p> <p>2 I, BETHANY HOWARD, do hereby certify that</p> <p>3 this transcript was prepared from the digital audio</p> <p>4 recording of the foregoing proceeding, that said</p> <p>5 transcript is a true and accurate record of the</p> <p>6 proceedings to the best of my knowledge, skills, and</p> <p>7 ability; that I am neither counsel for, related to,</p> <p>8 nor employed by any of the parties to the action in</p> <p>9 which this was taken; and, further, that I am not a</p> <p>10 relative or employee of any counsel or attorney</p> <p>11 employed by the parties hereto, nor financially or</p> <p>12 otherwise interested in the outcome of this action.</p> <p>13</p> <p>14</p> <p><i>Bethany Howard</i></p> <p>15 BETHANY HOWARD</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 103</p>	<p>1 Taylor, Jaasin v. Ball Corporation</p> <p>2 Russell J. Kendzior 5679456</p> <p>3 ACKNOWLEDGEMENT OF DEPONENT</p> <p>4 I, Russell J. Kendzior, do hereby declare that I</p> <p>5 have read the foregoing transcript, I have made any</p> <p>6 corrections, additions, or changes I deemed necessary as</p> <p>7 noted above to be appended hereto, and that the same is</p> <p>8 a true, correct and complete transcript of the testimony</p> <p>9 given by me.</p> <p>10</p> <p>11</p> <p>12 Russell J. Kendzior Date</p> <p>13 *If notary is required</p> <p>14 SUBSCRIBED AND SWORN TO BEFORE ME THIS</p> <p>15 ____ DAY OF ____, 20__.</p> <p>16</p> <p>17</p> <p>18</p> <p>19 NOTARY PUBLIC</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 105</p>